

ABC, Inc. ABC Television Affiliates Association

October 22, 2003

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 02-230

Dear Chairman Powell:

We write to reiterate and to underscore our support for the adoption by the FCC of the Broadcast Flag Solution put forward by the Motion Picture Association of America, ABC, the ABC Television Affiliates Association, the National Association of Broadcasters, and 15 other companies and associations.

The broadcast flag remains critical to the digital transition, and in particular the ongoing vitality of free over-the-air broadcasting and the services rendered by local broadcasters to our local communities. Without a broadcast flag, the economic viability of the program production and distribution process will be eviscerated. Absent the meaningful protections afforded by the broadcast flag against unauthorized redistribution of over-the-air digital broadcast programming, broadcasters will face serious impediments in competing for high value programming, but also in our ability to recover the significant costs associated with producing high quality local news and public affairs programming.

For these reasons we are pleased that the FCC appears to be moving forward with its Digital Broadcast Copy Protection proceeding. We hope to see that proceeding concluded in the coming weeks.

We are deeply concerned, however, with reports that some continue to advocate the exclusion of news and public affairs programming from the scope of any broadcast flag protection. As you know, news and public affairs programming is central both to the financial viability of a local broadcast station, as well as to its role in the community. Failure to protect such programming is essentially a failure to protect the economic viability of local broadcasters, to the ultimate detriment of the community itself.

The truth is that news and public affairs programming is no less valuable to the local broadcaster, and no less expensive to produce, than other forms of programming.

Nor does there appear to be any justification for treating news and public affairs programming provided free, over-the-air in an inferior manner to news and public affairs programming on cable or satellite. Such a disparity of treatment not only makes little sense from a policy standpoint, it threatens real problems from a very practical standpoint. Today, local broadcasters license elements of their local news programming from other providers, such as video footage of news stories. These elements themselves are valuable, and the inability to protect those elements would create an incentive for the licensors of those elements to favor, or even limit licenses to, those outlets that can provide protection against unlawful redistribution.

The FCC must also not lose sight of the fact that as broadcasters move forward in the digital transition, failure to protect news and public affairs programming against unauthorized Internet redistribution would have a devastating effect on the ability to pursue innovative new business models surrounding such programming. For example, a local broadcaster that wished to provide online, on-demand access to the local news or a local sporting event following an initial free broadcast to its viewing community may find the market for such a service totally eviscerated by the availability of substantially the same product for free on the Internet. This cannot be the aim of the Commission in its effort to spur the digital transition.

Put quite simply, piracy poses the same risks to producers of news and public affairs programming as it does to producers of other forms of programming. Failure to provide protection for these programs would not only be inequitable, it would be harmful to local stations who uniformly rely on the economic value of these programs to maintain a viable business. The fact that local broadcasters provide a service so highly valued by the community should not and cannot be the basis for a policy that discriminates against local broadcasters and leaves them devoid of protection from piracy in the digital transition.

We applaud your commitment to moving forward with this proceeding and urge you to ensure that the rules adopted by the Commission provide much needed protection for local broadcasters, including for their most valuable programming assets.

Respectfully Submitted,



Walter C. Liss, Jr.
President
ABC Owned Television Stations



Deb McDermott
Chair
ABC Television Affiliates Association

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Page 3 of 3

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MB Docket No. 02-230